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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1969

No. 1,046

EDMOND J. HAMILTON and
JOHN L. DATENHOFF,

Appellants,

versus

JOHN J. McKEITHEN, GOVERNOR OF THE STATE OF LOUISIANA,

Appellee.

On Appeal from the Supreme Court of the State of Louisiana

PETITION FOR REHEARING ON BEHALF OF EDMOND J. HAMILTON AND JOHN L. DATENHOFF, Appellants

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Franklin Press, Inc. — *Baton Rouge, La.*

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TO THE HONORABLE SUPREME COURT
OF THE UNITED STATES:

Comes now EDMOND J. HAMILTON and JOHN L. DATENHOFF, the appellants in the above entitled cause, in which judgment was rendered by this Court dismissing the

6.

In the present case there can be no question with respect to the fact that the private organizations which submit panels of names to the Governor are not elected consistent with the commands of the Equal Protection Clause, and, thus, the appointment of governmental officials having broad governmental and administrative powers from the panels submitted by the special groups is likewise not consistent with the commands of the Equal Protection Clause, as the duly qualified electors of the area over which the Port Commission exercises its jurisdiction, and who are most directly concerned and affected by the decisions of the board, have absolutely no voice in the selection of four (4) of the five (5) members of the board. Only one (1) vacancy on the board under the provisions of Article XIV, Section 30.2(b) of the Louisiana Constitution is filled by a panel submitted by State Senators and Representatives of Calcasieu Parish, all of whom are duly elected officials entitled to submit such a list.

7.

Petitioners further show that this is an unjustified discrimination with respect to the selection of these public officials, and is contrary to the principle of representative government.

8.

The following quotation from *Avery v. Midland County Texas*, 390 U.S. 474, 88 S. Ct. 1114 (1968), is particularly applicable here:

"The Equal Protection Clause reaches the exercise of state power however manifested, whether exercised directly or through subdivisions of the state. Thus, the prohibitions of the Fourteenth Amendment extend to all action of the state denying equal protection of the laws, whatever the agency of the state taking the action. . . . Cooper v. Aaron, 358, U.S. 1, 17, 78 S. Ct. 1401, 1049 3 L. Edition 2d 5 (1958)."

9.

In the present case although an appointive rather than elective process is being questioned, it is clear that the method of appointment is not consistent with the requirements of the Equal Protection Clause; that a substantial Federal question is presented, and that this Court should grant appropriate relief.

WHEREFORE, upon the foregoing grounds, it is respectfully urged that this petition for a rehearing be granted, and that the decree of this Court entered on March 16, 1970, be reversed and set aside; that this Court should thereafter give plenary consideration to this case to resolve the important issues herein presented, with briefs on the merits and oral argument, and a final decision by this Court.

Respectfully submitted,

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PROOF OF SERVICE

I, C. ALVIN TYLER, one of the attorneys for EDMOND J. HAMILTON and JOHN L. DATENHOFF, appellants herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the _____ day of _____, 1970, I served copies of the foregoing Petition for Rehearing on the several parties to this appeal, by mailing copies in duly addressed envelopes, with first class postage, as follows:

To: JACK P. F. GREMILLION, Attorney General of the State of Louisiana, of counsel for appellee, John J. McKeithen, Governor of the State of Louisiana, State Capitol, Baton Rouge, Louisiana.

To: Kenneth C. DeJean, Special Counsel, of counsel for John J. McKeithen, Governor of the State of Louisiana, Office of the Attorney General, State Capitol, Baton Rouge, Louisiana.

To: Willie D. Maynor, Assistant Attorney General, of counsel for appellee, John J. McKeithen, Governor of the State of Louisiana, Office of the Attorney General, State Capitol, Baton Rouge, Louisiana.

To: Sam H. Jones, G. Allen Kimball and William M. Nolen, Attorneys for appellee, John J. McKeithen, Governor of the State of Louisiana, and attorneys for intervenor-appellee, American Rice Growers Cooperative Association of Lake Charles, Louisiana, Jones, Kimball, Harper, Tete & Wetherill, Gulf National Bank Building, P. O. Box 910, Lake Charles, Louisiana 70601.

To: Everett R. Scott, Jr., attorney for intervenor-appellee, Lake Charles Maritime Association, Kaufman, Anderson, Leithead, Scott & Boudreau, 117 W. Broad Street, P. O. Box 1299, Lake Charles, Louisiana 70601.

To: Thomas L. Raggio, attorney for intervenor, Greater Lake Charles Chamber of Commerce, Hall, Raggio, Farrar & Barnett, Magnolia Building, Lake Charles, Louisiana 70601.

To: Meredith T. Holt, attorney for intervenors, Jesse M. Knowles, A. C. Clemmons, Jr., Harry M. Hollins, Robert G. Jones, William L. McLeod, Jr., William S. Boyd, and Conway LeBleu, Holt and Woodley, Pioneer Building, Lake Charles, Louisiana 70601.

I further certify that this petition for rehearing is presented in good faith and not for delay.

Attorney for Edmond J. Hamilton and John L. Datenhoff, Appellants
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